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Before the  
Federal Communications Commission  
Washington, D.C. 20554

Federal Communications Commission

MAY 17 1999

Common Carrier Bureau  
Network Service Division  
Office of the Chief

In the Matter of )

Petition of the Florida Public Service )

Commission for Authority to Implement Number )

Conservation Measures )

NSD File No. L-99-33

CC DOCKET: 96-98

## Comments of MediaOne Group

Pursuant to the Public Notice herein, MediaOne Group (MediaOne) submits these comments on the Petition filed by the Florida Public Service Commission (FPSC), in which the FPSC seeks authority to implement specified number conservation and rationing measures. The Petition arises from the *Pennsylvania Order*,<sup>1</sup> in which the Commission addressed the jurisdiction of state regulatory commissions to administer telephone numbering resources.

In the *Pennsylvania Order*, the Commission ruled that state commissions have only limited authority to implement conservation and rationing measures for central-office codes. It did, however, grant the states authority to implement code rationing schemes, but only when the particular state commission has determined a relief plan for the affected area code and has set a date for relief, and only if the industry has not reached consensus on a rationing plan. Finally, the Commission invited the states to submit requests for additional limited authority to implement number conservation measures. The Petition in this proceeding comes in response to that invitation.

<sup>1</sup> *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610,*

The FPSC has raised valid concerns regarding the manner in which telephone numbers are now allocated among local exchange carriers (LECs) in blocks of 10,000 numbers. This inefficient distribution mechanism produces the anomalous result that an area code may go into “jeopardy” status, even though one-half to two-thirds of its numbers remain unused. Though the Commission has under consideration national guidelines for number conservation measures, certain states must deal with difficult situations as they near area-code exhaust. Having faced the necessity of curtailing its services because of an inability to obtain needed central-office codes, MediaOne supports the efforts of the states and the Commission to improve code-allocation processes, so long as they facilitate competitive entry by making numbering resources available on an efficient, timely basis without unduly favoring or disfavoring any industry segment or group of carriers.

In addressing these issues, the Commission must distinguish conservation, which will make more numbers available by allocating them more efficiently, from rationing, which can only allocate the pain of code shortages, but can do nothing to relieve them. Rationing can never be an effective substitute for area-code relief. Once an area code has gone into jeopardy status, the overriding objective must be effective, expeditious relief. For this reason, the Commission correctly warned that it would not allow states to use rationing as an excuse to delay relief. Specifically, the Commission authorized the states to implement mandatory rationing plans only when they have settled on a relief plan for the affected area code and have a firm date to implement it. While MediaOne believes that requirement may be more exacting than the

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*215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 13 FCC Rcd. 19009 (1998).

situation requires,<sup>2</sup> we firmly believe the Commission must never permit the states to adopt rationing schemes absent a firm commitment to relief. With that backdrop MediaOne has the following comments on the PSC's proposals.

# **1. Thousands Block Pooling**

In the Petition, the PSC seeks authority to institute thousands block number pooling.<sup>3</sup> MediaOne has gone on record in support of thousands-block pooling,<sup>4</sup> and we believe the Commission would do well to grant the FPSC the necessary authority to implement that measure.

When a competitive LEC, such as MediaOne, first enters the market, it will need only a relative handful of numbers in any given rate center. Yet, under current procedures, each LEC must have at least one complete central-office code – 10,000 numbers – for each rate center it serves, even if it serves only a few dozen customers in that rate center. Thousands-block pooling can alleviate these problems by allowing LECs to take only a portion of a central-office code, leaving the remainder for others. Thousands-block pooling thus has the potential of greatly extending the life of at least some area codes by permitting multiple LECs to use the same central-office code.

To be sure, implementing thousands-block pooling nationwide under a uniform set of rules might be most efficient. But Florida and other states face severe code shortages now. Until

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<sup>2</sup> See, MediaOne's Petition for Reconsideration, NSD File No. L-97-42 (December 9, 1998).

<sup>3</sup> Petition, at 3. The PSC seeks authority to “perhaps” do hundreds-block pooling. So far as MediaOne is aware, no one has explored the necessity for, or the feasibility and ramifications of hundreds-block pooling. For that reason, we believe the Commission would be better advised not to grant authority for such a scheme at this time.

<sup>4</sup> See, Comments of MediaOne Group, NSD File No. L-98-134, pp. 6-9 (December 21, 1998); Comments of MediaOne Group, NSD File No. L-99-19, pp. 7-8 (April 5, 1999).

the Commission can adopt standards for thousands-block pooling, MediaOne believes it should permit the states to implement mandatory thousands-block plans. That will give the states another tool to use in making numbers available for all LECs, and it will provide data for the Commission to use in developing national standards for thousands-block pooling. These state plans must be non-discriminatory and competitively neutral, and they should be formulated in consultation with NANC and other industry groups; that way, the plans can track (to the extent possible) the plans under development nationally.

## **2. Sharing of Central-Office Codes in Rate Centers**

MediaOne is unfamiliar with the concept of “sharing” central-office codes, except as it might result from thousands-block pooling or individual-number pooling. If the FPSC has something else in mind, it should explain its idea. Absent more information, MediaOne cannot comment on this request.

## **3. Code Rationing**

The Petition seeks authority to implement a lottery for the allocation of central-office code and the authority to revise (in unspecified ways) rationing procedures. The FPSC wants this authority ahead of the time specified in the *Pennsylvania Order*, but it does not state when that trigger point should be. The Commission should grant this request, but only with appropriate limitations.

In the *Pennsylvania Order*, the Commission ruled that a state may implement a rationing plan only when it has determined a relief plan for the affected area code and has set a date for the

implementation of that plan.<sup>5</sup> The Commission imposed this requirement so that states cannot use rationing as a means of postponing the difficult decisions associated with any relief plan.<sup>6</sup>

MediaOne supports the Commission's objective in this. Rationing merely allocates a shortage of numbers; it does nothing to provide additional numbering resources or to allocate them more efficiently among the LECs. Rationing is thus no substitute for area code relief, and the Commission correctly has taken steps to ensure that the states do not attempt to make it so.

Nonetheless, MediaOne believes the *Pennsylvania Order* goes too far in limiting the power of the states to adopt rationing schemes. So long as the state has made an irrevocable commitment to complete the relief process in a reasonable time, it should have the authority to utilize rationing to prevent the complete exhaust of the affected area code. In this case, the FPSC apparently requests blanket authorization to implement rationing in any area code, at any time. If the FPSC wishes to pursue this request, the Commission should require it to specify the area codes to which it would apply, the schedule within which the FPSC will complete the relief process for those area codes, and the specific rationing plan it wishes to implement in each of them. As to this last, the rationing plan must match the situation it intends to address, so that the existing central-office codes will last only long enough to permit the relief process to run its course, with a reasonable margin for error.

If the Commission would impose these requirements, or similar requirements designed to ensure that rationing does not serve to delay relief, MediaOne believes it can and should grant this request.

#### **4. Reclamation of Unused and Reserved Central-Office Codes**

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<sup>5</sup> *Pennsylvania Order*, para. 24.

<sup>6</sup> *Id.*, para. 25.

The FPSC seeks the authority to “investigate” the possibility of reclaiming unused and reserved central-office codes in order to increase the supply of codes available to carriers who need them. Properly implemented with sufficient safeguards, the authority requested here could add meaningfully to the supply of central-office codes in Florida.

The reclamation of central-office codes is currently governed by procedures set forth in industry guidelines administered by the North American Numbering Plan Administrator (NANPA). Those guidelines specify that a carrier must return a central-office code if it no longer needs the code or if it has not activated the code within a specified time frame (up to 18 months) after assignment.<sup>7</sup> NANPA thus already has authority to recover unused codes.

Nothing precludes the FPSC's having similar authority. If the Commission would grant such authority, however, it must ensure that carriers have sufficient time to activate their initial (*i.e.*, only) code in a rate center. This becomes particularly critical in a rationing environment (which is when the FPSC is most likely to use reclamation) because a new entrant will not know in advance that it will receive a code and thus may undertake significant pre-launch activities in a rate center only after it has secured a code. Reclamation procedures thus must provide sufficient time for new entrants to get their service up and running, including ample time to overcome the unforeseen difficulties that invariably arise. Any other course would lead to duplicative assignment and allocation efforts, place an unwarranted burden on competitive carriers and unnecessarily limit the growth of competition. Subject to these limitations, the Commission should authorize the FPSC to reclaim unused codes.

The FPSC should also have authority to reclaim reserved central-office codes. Current guidelines empower NANPA to request the voluntary return of reserved codes in times of

jeopardy.<sup>8</sup> MediaOne believes the Commission should authorize the FPSC to require the return of reserved codes, unless they are needed by a competitive entrant to begin providing service. In times of jeopardy, the reservation of multiple central-office codes for testing, or for the convenience of the reserving carrier, is an unaffordable luxury.

#### **5. Maintain Rationing for Six Months After Relief**

Once relief has been implemented in an area code, the FPSC requests the authority to continue rationing for six months in order to control the “artificial increase” in demand that supposedly follows the announcement of an area code relief plan. MediaOne opposes this request.

If the FPSC witnesses an increase in the demand for central-office codes, and if that increase is truly artificial, the FPSC can and should address the situation by reclaiming unused central-office codes. If, on the other hand, there are no unused central-office codes to reclaim, then the increase in demand was not artificial, and no corrective action is required or appropriate.

While rationing may be necessary in jeopardy situations, it always produces adverse side effects. And those effects always impact new entrants more than the incumbents. Rationing might require an incumbent to refuse a customer’s request for a certain number or block of numbers, but the incumbent will have numbers in almost any circumstance. If a new entrant cannot get a central-office code to serve a particular rate center, it will have no numbers at all.

Extending rationing beyond the date of area code relief would effectively deny all carriers the benefits of that relief for the period of the extension. The authority requested by FPSC is

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<sup>7</sup> Central Office (NXX) Assignment Guidelines, §8.2.1.

<sup>8</sup> *Id.*, §9.4(D).

unnecessary and it will serve only to extend the competition-stifling effects of rationing. The Commission should deny this request.

**6. Implement Unassigned Number Porting**

The FPSC seeks authority to implement unassigned number porting (UNP). UNP would involve the direct porting of unused numbers from one carrier to another. While UNP holds promise as a conservation tool, it raises significant questions of administration. Until these questions can be resolved, MediaOne believes any attempt to implement UNP would be premature and could produce unforeseen adverse results. The Commission should deny this request.

**7. Rate Center Consolidation**

The Petition seeks authorization to enable the FPSC to undertake rate center consolidation. Rate center consolidation is one of the best conservation tools available to regulators. The Commission should encourage the states to consolidate rate centers – thereby reducing the demand for central-office codes – at every opportunity. However, we know of nothing that would require the FPSC to obtain the Commission’s permission to undertake rate center consolidation. If that is correct, the Commission should dismiss this request as moot. If the Commission believes otherwise, however, it should grant the FPSC’s request in this regard.

**8. NANPA Code Allocation**

Finally, the FPSC asks the Commission to establish code allocation standards to manage numbering resources more efficiently and to require NANPA to consult with the FPSC prior to issuing additional central-office codes in Florida. MediaOne believes the Commission should deny both requests.

Requiring greater efficiency in the management of numbering resources might well be a good idea, but the FPSC gives us no idea what it means by this concept, and it is not at all self-evident. Moreover, we are not told what specific measures the FPSC would have the Commission enact to produce this efficiency. Without knowing any of this, MediaOne believes the Commission cannot grant this request. It might, however, invite specific proposals from the FPSC (or others) for consideration.

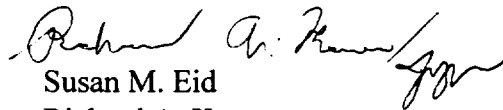
The FPSC's requested consultative role in the assignment of central-office codes is equally vague. The FPSC does not tell us whether it wishes merely to be informed, whether it would want to give input into NANPA's decisions, or whether it proposes to have decision-making power in these matters. Giving the FPSC a role in central-office code assignment in the absence of a jeopardy condition seems futile. If NANPA is awarding codes wastefully, the FPSC should propose ways to correct that situation. By inserting itself into the routine process of issuing central-office codes, the FPSC will – at best – clutter the process and slow it down; at worst, the FPSC's participation could inject an element of contention into what should be a ministerial process and perhaps deny codes to carriers who rightfully need them. The Commission should deny this request.

## CONCLUSION

The Petition herein reflects the frustrations many state regulators have experienced in trying to deal with the seemingly intractable problems associated with the exhaust of central-office codes in their states. To the extent the Commission can safely grant the states additional powers to deal with these issues, MediaOne believes it should do so. At the same time, however, the Commission must retain some measure of control over the process to ensure that the needs of

new competitive entrants are not overlooked in the process of coping with and alleviating code shortages. In these Comments, we have attempted to set forth the measures the Commission can – in MediaOne's opinion – safely take to expand state authority. MediaOne urges the Commission to grant the Petition as to those measures, and deny it as to the others.

Respectfully submitted,



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May 14, 1999

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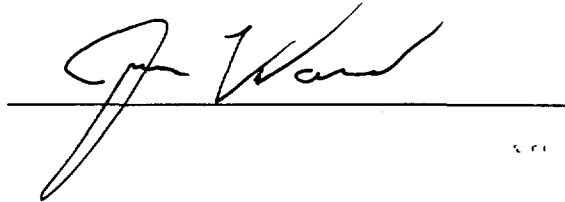
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A handwritten signature in black ink, appearing to read "J. Ward", is written over a horizontal line. The signature is stylized with a large, sweeping initial "J" and a clear "Ward".

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NSD File No. L-99-33

**CE DOCKET 96-98**

## SPRINT PCS COMMENTS

Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint PCS"), submits these comments in response to the petition for authority to implement number conservation measures submitted by the Florida Public Service Commission ("FPSC").<sup>1</sup>

### I. Introduction and Summary

As the Commission has recognized, there is an "urgent need to address the numbering crisis."<sup>2</sup> This crisis will be solved only when two developments occur: (1) timely area code relief is implemented so new supplies of numbers are available when carriers need them ("area code relief"), and (2) carriers improve the efficiency in which they use the numbers already assigned to them ("number conservation").

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<sup>1</sup> See *Public Notice*, "Common Carrier Bureau Seeks Comment on the Florida Public Service Commission's Petition for Authority to Implement Number Conservation Measures," NSD File No. L-99-33, DA 99-725 (April 15, 1999). The FPSC also asks in passing for "additional authority to implement various area code measures," without specifying the type of measures it is considering. See FPSC Petition at 7. Obviously, this vague request does not meet the legal standard necessary for entry of a waiver of current FCC area code implementation rules.

<sup>2</sup> *CMRS Number Portability Forbearance Order*, WT Docket No. 98-229, FCC 99-19, at ¶ 44 (Feb. 9, 1999).

Number conservation is a critical component in solving the current crisis, and the goal of improving the efficiency in which numbers are utilized will be realized only if all involved — carriers, state commissions, and this Commission — do their part. States can implement several effective conservation measures today, including rate center consolidation, guidelines to preserve 1,000 blocks for number pooling, and needs-based assignment of NXX codes to service providers. Other conservation measures, like number pooling and unassigned number porting, will take longer to implement even though industry has been working intently and “cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country.”<sup>3</sup> In the meantime, area code relief should not be delayed.

As the Commission is aware, in certain areas Sprint PCS has had difficulty in obtaining the numbers it needs to support the services its public.<sup>4</sup> The difficulty Sprint PCS has encountered has been due in part by the inefficiency in which some carriers use numbers (because this inefficiency results in fewer numbers being available to Sprint PCS and other carriers when they need them), but also by certain state commissions which have delayed implementation of much needed area code relief.

Sprint has done its part to promote number conservation.<sup>5</sup> In Florida, for example, Sprint PCS has returned voluntarily four NXX codes in the 305 NPA now in

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<sup>3</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd 19009, 19023 ¶ 21 (1998).

<sup>4</sup> See Letter from Vog R. Varma, Deputy Chief, Common Carrier Bureau, to Ronald R. Conners, NANPA Director, NSD File No. 99-25, DA 99-505 (March 12, 1999).

<sup>5</sup> Consumer groups have acknowledged the steps Sprint PCS has taken to use efficiently the numbers assigned to it. See New York Consumer Protection Board, Comments on Sprint PCS Petition for Emergency Numbering Relief in the 516 NPA, N.Y. Docket 98-C-0689 (Feb. 12, 1999)(Sprint PCS has taken “aggressive measures to fully utilize all telephone numbers it has been assigned.”).

extraordinary jeopardy, agreeing to satisfy demand codes from the new overlay once it is implemented. In addition, Sprint Corporation has taken a leadership role in developing an industry-consensus plan intended to preserve 1,000 blocks for number pooling by LRN-capable carriers. The industry is working towards submitting the plan to the FPSC within the next week to address the FPSC's legitimate concerns that some carriers may not be assigning efficiently individual telephone numbers within their NXX codes.<sup>6</sup>

This Commission should, as a general rule, encourage states to do everything they can to promote conservation so long as competition is not harmed. However, it is important that the Commission delegate additional authority with care, because some state commissions have made apparent their intention to use conservation measures "as substitutes for area code relief or to avoid making difficult and potentially unpopular decisions on area code relief."<sup>7</sup>

Sprint PCS does not mean to suggest that the FPSC would misuse additional conservation authority that the Commission may delegate. To date, the FPSC has done a reasonably admirable job of implementing area code relief in a timely manner.<sup>8</sup> However, Sprint PCS suspects that even the FPSC would admit that it could do more with regard to number conservation (*e.g.*, appropriate rate center consolidation). Moreover, Sprint PCS is baffled by the FPSC request to obtain additional rationing/lottery authority as part of its "conservation" petition because, as demonstrated below, rationing/lotteries do not constitute number conservation.

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<sup>6</sup> See FPSC Petition at 7.

<sup>7</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19027 ¶ 26.

<sup>8</sup> To Sprint PCS' knowledge, six Florida NPAs (305, 407, 561, 904, 941, and 954) are now in extraordinary jeopardy and in need of relief plans.

This Commission also has an important role to play. Industry's NRO Optimization Report has been pending before the Commission for over six months.<sup>9</sup> The expeditious adoption of the consensus thousands-block number pooling proposal would do much to remove major inefficiencies in the current assignment system. The Commission has already noted that there is a "compelling need for immediate and comprehensive action to improve efficient use of numbering resources"<sup>10</sup> and that number pooling by itself "should result in significant efficiencies in NXX administration and use."<sup>11</sup> Sprint PCS encourages the Commission to enter promptly its decision on the NRO Report — at least with respect to the industry-consensus pooling proposal.

It bears emphasis that number conservation, as important as it is, is not a substitute for area code relief:<sup>12</sup>

State commissions, by declining to implement area code relief, should not put carriers in the position of having no numbers and therefore being unable to serve customers.<sup>13</sup>

Among other things, the benefits of number conservation take time to realize,<sup>14</sup> and in many locations, including Florida, area code relief is needed soon, if not immediately.<sup>15</sup>

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<sup>9</sup> See *Public Notice*, "Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures, NSD File No. L-98-134, DA 98-2265 (Nov. 6, 1998).

<sup>10</sup> *CMRS Number Portability Forbearance Order*, WT Docket No. 98-229, FCC 99-19, at ¶ 44 (Feb. 9, 1999). See also *id.* at ¶ 26 ("[W]e must act quickly to promote efficient use of numbers by all carriers."); at ¶ 44 ("We are mindful . . . of the urgent need to address the numbering crisis.").

<sup>11</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19024 ¶ 22

<sup>12</sup> *Id.* at 19025 ¶ 22 ("Conservation methods are not, however, area code relief, and it is important that state commissions recognized that distinction and implement area code relief when it is necessary."). See also *id.* at 19027 ¶ 26.

<sup>13</sup> *Id.* at 19033 ¶ 38.

<sup>14</sup> See *id.* at 19028 ¶ 29.

The failure to implement timely area code relief has severe consequences on the ability of consumers and businesses to obtain the services they desire and need. A shortage in numbering resources also gives incumbent carriers an enormous and completely artificial competitive advantage in the marketplace because, unlike new entrants, incumbents have reserves of numbers that they can access in a time of shortages.<sup>16</sup> It is therefore critical to the very success of competitive market forces that state commissions not lose sight of their duty to implement area code relief when needed — *and* for this Commission to be prepared to step in when a state commission fails to act timely.<sup>17</sup>

## **II. Rationing Is Not Number Conservation, and the Commission Should Not Delegate Additional Rationing Authority to the States**

Last September, the Commission delegated to the states new authority to become involved in the rationing process so long as they had adopted an area code relief plan and industry is unable to reach agreement on a rationing plan.<sup>18</sup> Like other states, the FPSC now seeks additional rationing authority as part of its petition to implement “number conservation measures.” Specifically, the FPSC seeks delegated authority so it can (1) “institute NXX lotteries prior to the adoption of area code plans . . . to prolong the life of existing area codes,” and (2) “maintain . . . code rationing measures for at least six

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<sup>15</sup> See note 8 *supra*.

<sup>16</sup> See Sprint Corporation Comments, NSD File No. L-17/19/21, at n.8 (April 5, 1999); Letter from Jonathan Chambers, Sprint PCS, to Yog R. Varma, Deputy Chief, Common Carrier Bureau, NSD Filed No. L-98-134 (Jan. 29, 1999).

<sup>17</sup> See *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19027 ¶ 26.

<sup>18</sup> See 47 C.F.R. § 59.19(a) *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19025-26 ¶¶ 24-25.

months after the implementation of all area code relief plans.”<sup>19</sup> The Commission should deny this request and similar requests made by other states.

There is no reason to grant Florida, or any other state, authority to initiate rationing before the state adopts an area code relief order. If the Commission were to delegate this authority, states would then have the incentive to “impose a rationing plan . . . to avoid making a decision on area code relief.”<sup>20</sup> Indeed, the FPSC readily acknowledges that it desires pre-relief order rationing authority “to prolong the life of existing area codes”<sup>21</sup> — namely, “to avoid making difficult and potentially unpopular decisions on area code relief.”<sup>22</sup> The fact is that rationing does not improve in any way the efficiency in which carriers use numbering resources assigned to them, and rationing can harm competition.

Nor should rationing be used to “conserve” numbers for pooling with the hope of avoiding area code relief, as the FPSC seems to suggest. There are far more effective ways to preserve 1,000 blocks for number pooling, such as the industry consensus plan that will be submitted to the FPSC shortly and the 1,000 block preservation plans adopted by other states, especially in the Northeast.<sup>23</sup>

Nor is there any basis to permit any state to impose rationing after a new area code has been implemented. FPSC asserts that such authority is needed to “control

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<sup>19</sup> FPSC Petition at 3 and 4.

<sup>20</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19027 ¶ 25.

<sup>21</sup> FPSC Petition at 3.

<sup>22</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19027 ¶ 26.

<sup>23</sup> A copy of the 1,000 blocks preservation plan that the Massachusetts Commission adopted at the recommendation of industry is attached.

the artificial increase in demand” once a relief plan has been implemented.<sup>24</sup> However, while rationing is one way to control the total number of codes assigned, such a system does nothing to control or accommodate the public’s demand for services and associated numbers. Once again, the more effective approach is for states to adopt consensus plans to preserve unused 1,000 blocks in anticipation of federal pooling guidelines, plans that will remain in force even after area code relief is implemented.

Moreover, a rationing/lottery system does not guarantee that those carriers most in need of numbering resources will receive them.<sup>25</sup> Sprint PCS agrees that the current assignment criteria may need to be reexamined, and it supports a more strict “needs-based” assignment procedure.<sup>26</sup> Sprint PCS believes that industry, not regulators, should be given the first opportunity to develop needs-based assignment procedures, like those industry recently adopted in New York for the 516 and 914 NPAs.

Sprint PCS applauds the FPSC’s interest in number conservation. However, rationing is not number conservation, and Sprint PCS hopes that the FPSC withdraws its request for rationing authority so it can instead focus its attention on area code relief and true number conservation, where its participation is indispensable.<sup>27</sup>

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<sup>24</sup> FPSC Petition at 4. It is not uncommon to see increased demand for NXX codes after a new area code is in place because the rationing that had been in effect (often for a year or longer) had the effect of *artificially* restricting demand.

<sup>25</sup> See note 3 *supra* and accompanying text.

<sup>26</sup> The current criteria — exhaust within six months — is a reasonable criterion. The weakness in the current process is that it relies on the “honor system” with the result that some carriers are incited to misuse the process.

<sup>27</sup> The Commission should be aware that numerous Florida NPAs are in jeopardy (*see* note 7 *supra*), and in each instance industry on its own agreed to a temporary rationing plan. Accordingly, there is no reason for the FPSC to become involved in any way in the rationing process (except, as discussed below, to address emergency petitions).

### **III. The Commission Should Delegate Additional Conservation Authority With Care**

Sprint PCS below comments on some of the additional authority the FPSC has requested.<sup>28</sup>

#### **A. The Commission Should Delegate Immediately Interim Authority to States to Consider Emergency Petitions for Relief**

Sprint has previously demonstrated that there is an “authority gap” in the current regime: it is unclear who — states or NANPA — has the authority to act on petitions for emergency relief for the assignment of a code outside the rationing process.<sup>29</sup> Sprint therefore recommends that the Commission immediately delegate to all states, if only for an interim period, authority to entertain carrier petitions for emergency relief.

#### **B. Delegation of Pooling Authority Should Be Deferred Pending Development of National Standards — Assuming the Commission Adopts Such Standards Shortly**

The FPSC requests authority to implement thousands-block number pooling “in advance of any federal rules.”<sup>30</sup> Sprint recommends that the Commission defer this request so long as it anticipates adopting in the near future national pooling guidelines.

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<sup>28</sup> The FPSC also asks that the Commission direct NANPA to update COCUS reports quarterly and to establish new code allocation standards. FPSC Petition at 5. Sprint will defer commenting on these requests until it has the benefit of NANPA’s views.

<sup>29</sup> See Sprint Corporation Comments, NSD File Nos. L-99-17/19/21, at 12-13 (April 5, 1999).

<sup>30</sup> FPSC Petition at 3. Sprint opposes the FPSC request regarding unassigned number porting, because the implementation and operational costs would far exceed the promised benefits. See Sprint Corporation Comments, NSD File No. L-98-134, at 36-37 (Dec. 21, 1998).

Thousands-block pooling, the Commission has noted, “should result in significant efficiencies in NXX administration and use.”<sup>31</sup> Indeed, a recent Colorado PUC staff study documented that implementation of thousands-block pooling in the 303 NPA “could have reclaimed approximately 23% of the NPA resource.”<sup>32</sup> Sprint supports implementation of the industry thousands block number pooling proposal for those carriers wanting to use separate numbering resources for each landline rate center.<sup>33</sup> The real issue, then, is how such pooling can be implemented most expeditiously.

Sprint believes that national pooling guidelines are essential.<sup>34</sup> Indeed, the need for national rules is highlighted by the FPSC’s statement in passing that it might consider implementing hundreds-block pooling — a new arrangement that to Sprint’s knowledge, industry had not has an opportunity to examine.<sup>35</sup> Moreover, industry’s resources would not be well spent if a carrier’s numbering experts were required to participate simultaneously in multiple, and largely redundant state pooling proceedings.

The FPSC contends that the establishment of national rules “could take considerable time.”<sup>36</sup> Sprint must respectfully disagree. The Commission has been evaluating the industry’s consensus proposal for six months, and Sprint would like to

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<sup>31</sup> *Pennsylvania Area Code Relief Order*, 13 FCC Rcd at 19024 ¶ 22.

<sup>32</sup> Colorado Number Pooling Model Results at 2.

<sup>33</sup> The benefits of pooling will be realized for those carriers demanding separate NXX codes for each landline rate center. In contrast, pooling would provide marginal, if any, benefits for CMRS providers that use a single NXX code encompassing several landline rate centers. As the Commission concluded after reviewing CMRS utilization data, CMRS providers already are “using a relatively high percentage of their allocated numbering resources in high-density and high-growth markets.” *CMRS Number Portability Forbearance Order*, WT Docket No. 98-229, FCC 99-19, at ¶ 45 (Feb. 9, 1999).

<sup>34</sup> See Sprint Corporation Comments, NSD File No. L-98-134, at 14-16 (Dec. 21, 1998).

<sup>35</sup> FPSC Petition at 3.

<sup>36</sup> *Id.*

think that national guidelines will be published shortly. Conversely, the adoption of national guidelines would be deferred if the Commission were to divert its attention to drafting orders on the various state petitions seeking pooling authority. In addition, Commission pooling delegation orders would only begin the process, because the states in question would then have to commence proceedings to develop their respective pooling plans.

Under the circumstances, Sprint believes that the most efficient course is for everyone involved to defer to the establishment of national pooling guidelines, and Sprint encourages the Commission to develop such guidelines as quickly as practical.

**C. The Submission of Competitively Sensitive CMRS Data to Public Agencies Involves Unique Confidentiality Concerns**

The FPSC asks that the Commission “require wireless carriers to provide the necessary COCUS and other information needed to carry out our responsibilities.”<sup>37</sup> Sprint PCS has worked with state commissions so they can implement effective number conservation measures.<sup>38</sup> In some cases, state commissions have not appreciated the need to protect competitively sensitive information.

The CMRS market is robustly competitive. At times, state commissions have requested CMRS providers to submit detailed information concerning their number utilization. This data, which can be important for monitoring the potential jeopardy status of area codes, also reveals highly sensitive competitive information that a carrier’s competitors can use to their advantage. Sprint PCS submits that the better course, at least

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<sup>37</sup> FPSC Petition at 5-6.

<sup>38</sup> See page 2 *supra*.

in ordinary circumstances, is for CMRS providers to provide their respective detailed data to NANPA, which would then share the information with the state commissions in a manner that does not disclose the individual identities of each carrier.<sup>39</sup>

Sprint PCS is somewhat perplexed by this particular FPSC request. The FPSC asserts that it needs the requested authority for two reasons. First, it states that CMRS providers should be required to submit the data necessary for the preparation of the COCUS reports.<sup>40</sup> However, CMRS providers, like all other carriers, are already required to submit COCUS data to NANPA,<sup>41</sup> and Sprint PCS would hope that NANPA notifies the Commission of any carrier not submitting this important data. The FPSC additionally asserts that it needs unspecified detailed data from CMRS providers “to investigate the feasibility of various pooling scenarios.”<sup>42</sup> Yet, as the FPSC is aware, CMRS providers cannot participate in pooling because they do not have the capability to support number portability.

Sprint PCS is willing to respond to reasonable data requests made by the FPSC or any other state commission. However, this Commission should be prepared to address situations where the state data requests are unreasonable or would disclose competitively sensitive information.

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<sup>39</sup> Sprint PCS does not mean to suggest that the identities of carriers with low utilization rates should not be divulged to state commissions. However, state commissions should take steps to protect the confidentiality of all commercially sensitive information — especially with regard to carriers that take number conservation seriously.

<sup>40</sup> FPSC Petition at 6.

<sup>41</sup> See Letter from Alan C. Hasselwander, NANC Chair, to Josephine Gallagher, INC Moderator, at 1 (July 30, 1997)(“NANC’s consensus is that all code assignees are required to provide the requested [COCUS] data to the NANPA, which will protect the proprietary nature of the data.”).


<sup>42</sup> FPSC Petition at 6.

#### **IV. Conclusion**

For all the foregoing reasons, Sprint PCS respectfully requests that the Commission deny all state requests, including Florida's, for additional delegated authority over the rationing process. Sprint PCS further recommends that the Commission defer acting on the various requests for pooling authority so that work can continue on establishment of national guidelines.

Respectfully submitted

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May 14, 1999

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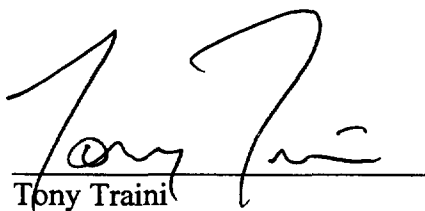
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Tony Traini

## **Massachusetts Industry Proposal on Telephone Number Assignment and Code Conservation Methods**

The Industry submits the following code conservation procedures to promote efficient use of available numbering resources according to current applicable Industry directions and guidelines. These procedures will enhance responsible number assignment principles and will help preserve numbering resources in the event that Thousands Block Telephone Number Pooling is implemented in Eastern Massachusetts. These procedures are not intended to imply any position on the eventual implementation of pooling standards in Eastern Massachusetts.

### **Existing Code Conservation Measures**

For every Eastern Massachusetts area code, the quantity of NXX codes assigned to service providers is restricted to a specific number of NXXs per month and will be allocated to the various service providers using a lottery process. The monthly quantities are as follows: 617 - 6 codes, 508 - 6 codes, 978 - 10 codes, and 781 - 8 codes. Each service provider must certify that its supply of numbers will exhaust within six months before that carrier may request a new NXX code in accordance with Section 8.4 of the Central Office Code Guidelines (Attachment 1). This jeopardy procedure provides a constraint on overall utilization of NXX codes in Eastern Massachusetts.

### **Additional Code Conservation Measures**

#### **Thousands Block Number Conservation**

The industry has agreed to modify its current assignment procedures for telephone numbers within NXX codes to achieve the following goals:

1. To maximize the potential quantity of vacant thousand number blocks to be contributed to an industry inventory pool when the national telephone number pooling platform is implemented.
2. To minimize the risk of customer impacts associated with a new telephone number (TN) assignment practice/policy.
3. To minimize the required time and cost of implementing a new TN assignment practice/policy.
4. To maintain consistency with current applicable industry directions and guidelines.

This proposal is consistent with the current applicable directions and definitions documented in the draft Industry Numbering Committee (INC) Number Pooling Guidelines<sup>1</sup> under development. Specifically, this proposal follows number administration techniques which facilitate the efficient use of numbers as reflected in Section 2.7c, Assumptions and Constraints. Section 2.7c provides, in part, as follows: "the Block Holder shall: establish internal policies and practices that provide for the efficient use and assignment of numbers to end users. These policies and practices shall balance product specifications and market strategies and customer needs with conservation principles to ensure best practices in number utilization. A service provider should assign out of a given block before making assignments out of another block."

#### **Concept**

Service providers will set aside in a "holding" category, within their telephone number administration systems, vacant thousand number blocks that are considered potential candidates for contribution to an industry inventory pool when the national telephone number pooling platform is implemented in Eastern Massachusetts. Each service provider will maintain 6 months of TN resources to be used to meet customer demand. This type of variable demand analysis allows for the different telephone number demand patterns inherent in different geographic areas (e.g. rural central office versus urban central office) and is consistent with current INC Central Office Code Administration Guidelines which employ similar threshold concepts (e.g. months to exhaust). Numbering resources will be moved a block of TNs at a time as required from the service provider's "holding" category in order to maintain the 6 months of TN inventory or to meet a specific customer requirement. At the time telephone number pooling is implemented in a specific rate center, Local Number Portability (LNP) capable service providers will analyze the thousands blocks residing in their "holding" category as well as any qualified contaminated block for contribution to an industry telephone number pooling inventory pool in accordance with procedures outlined in the final national telephone number pooling guidelines.

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<sup>1</sup> Industry Numbering Committee, "Thousands Block (NXX-X) Assignment Guidelines", Draft 5 dated June 6, 1998.

## Proposal

1. Service providers will continue to operate within the existing national Central Office (CO) Code Assignment Guidelines and/or any Code Jeopardy procedures agreed to by the Industry. This includes, but is not limited to, a service provider's ability to request additional NPA NXX codes from the Code Administrator when projected customer demand will exhaust the existing TN inventory within 6 months in a code jeopardy situation, the preparation of the required supporting documentation (i.e., Appendix B), and the certification that an NXX code request is in compliance with all requirements outlined in the Central Office Code Assignment Guidelines, Code Jeopardy procedures and the TN assignment principles are included herein.
2. Service providers will set aside in a "holding" category (i.e. restrict from assignment in their TN Assignment/Administration systems) all vacant thousands blocks. A vacant thousands block is defined as a block within which all TNs are available for assignment. Telephone numbers unavailable for assignment, as defined in Section 3.1 of the INC "Thousands Block (NXX-X) Assignment Guidelines," draft 6, include: (A) Numbers that are working with customers, (B) Numbers assigned to pending service orders, (C) Numbers classified as "Soft Dial Tone", (D) Numbers in the aging period, (E) Reserved Numbers, (F) Test Numbers, (G) Wireless Dealer numbering pools and (H) Wireless Temporary Local Directory numbers (TLDN).
3. Service Providers will not add to their inventory of available TNs for each rate center until there is insufficient inventory to meet six (6) months of projected customer demand. However, if a service provider is unable (via any method, manual or mechanized) to utilize TNs among multiple switches within a rate center, then the 6-month TN inventory will be determined per switch. The six (6) months of projected customer demand will be determined by analyzing the historical demand trends for business and residential customers, seasonal requirements, and volatile growth patterns of certain products and services (e.g. DID, Centrex, new services), per rate center or switch, whichever is applicable.
4. Service providers will release numbering resources in thousand number blocks from the "holding" category as required in order to maintain the 6 months inventory supply or to meet a specific customer requirement. Examples of a specific customer requirement would be the need for sequential thousands blocks, a particular number series, or a bona fide customer request for a specific number.
5. Carriers will submit thousand number block utilization reports to ensure service provider compliance with this proposal. As a result of the recent DTE request for thousands block utilization, baseline data is being submitted to the Department for its review. Follow-up reports will be filed on a semi-annual basis to be used to verify compliance with these procedures. These reports will continue to be submitted until actual number pooling is implemented in Eastern Massachusetts and shall be treated as confidential and proprietary.
6. At the time telephone number pooling is implemented in a specific rate center, LNP capable service providers will analyze the thousands blocks residing in their "holding" category as well as any qualified contaminated block for contribution to an industry telephone number pooling inventory pool in accordance with the final national telephone number pooling guidelines.

Excerpt from section 8.4 in the Central Office Code (NXX) Assignment Guidelines:

The following are special conservation procedures that will be invoked in the situation of a jeopardy NPA;

For additional codes for growth, each code holder will certify that existing codes for the switching entity/POI, per service provider by that switching entity/POI, will exhaust within 6 months and will have documented and be prepared to supply as described in Section 4.2, Section 2, and Appendix A (Audits) supporting data in the form of:

TNs available for assignments

Growth History for 6 months

Projected demand for the coming 6 months

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Before the  
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Washington, D.C. 20554

In the Matter of )

Common Carrier Bureau Seeks Comment )  
on the Florida Public Service )  
Commission's Petition For )  
Additional Authority To Implement )  
Number Conservation Measures )

DA 99-725  
NSD File No. L-99-33  
CC DOCKET: 96-98

Federal Communications Commission  
Office of Secretary

To: Chief, Common Carrier Bureau

Received

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Common Carrier Bureau  
Network Service Division  
Office of the Chief

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Vice President and  
Chief Regulatory Officer

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Date: May 14, 1999

Before the  
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Washington, D.C. 20554

In the Matter of	)	
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Commission's Petition For	)	NSD File No. L-99-33
Additional Authority To Implement	)	
Number Conservation Measures	)	

To: Chief, Common Carrier Bureau

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Public Notice of the Federal Communications Commission ("Commission"),<sup>1/</sup> Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Florida Public Utilities Commission's ("PUC") request for additional authority to implement various number conservation measures that are outside the scope of the PUC's delegated authority.<sup>2/</sup>

In the Request, the PUC seeks authority to (a) impose 1,000 block pooling prior to the implementation of federal pooling rules, (b) require the sharing of NXX codes within rate centers, (c) revise rationing measures and institute lotteries prior to establishing a code relief plan, (d) reclaim unused and reserved

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<sup>1/</sup> Public Notice, "Common Carrier Bureau Seeks Comment on the Florida Public Utilities Commission's Petition for Additional Authority to Implement Number Conservation Measures," DA 99-725, released April 15, 1999.

<sup>2/</sup> Florida Public Utilities Commission's Petition to the Federal Communications Commission for Expedited Decision For Grant of Authority to Implement Number Conservation Measures, filed April 2, 1999 (hereinafter "Request").

central office codes, (e) maintain current rationing until six months after implementation of area code relief plans, thereby arguably controlling an artificial increase in requests for assignments from the old code that will result from implementation of a new code, (f) expand deployment of Local Number Portability ("LNP"), and (g) implement unassigned number porting.<sup>3/</sup>

Additionally, the PUC requests authority to use the Line Number Utilization Survey ("LINUS") to run quarterly NXX usage reports, and it requests that the Commission direct the North American Numbering Plan Administrator ("NANPA") to: (a) update the Central Office Code Utilization Survey ("COCUS") quarterly rather than annually, and (b) establish more efficient code allocation standards.<sup>4/</sup> The PUC also requests that wireless carriers be ordered to provide COCUS information.

Nextel submits these comments to oppose the PUC's Request, to the extent discussed below, because its proposals would impose a different set of number assignment and code conservation standards and guidelines in Florida than are imposed in other states. Imposing a unique set of rules in Florida would complicate the NANPA's efforts to implement and direct the code assignment process and create operational complexities for carriers. With regard to the PUC's requests regarding NANPA actions, Nextel supports the use

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<sup>3/</sup> See Request at pp. 3-5. The PUC also seeks authority to implement rate center consolidation. Request at p. 5. Because the PUC already has jurisdiction over rate centers, it can implement rate center consolidation without any relief from the Commission.

<sup>4/</sup> Request at p.5.

of more efficient allocation standards and strongly encourages the State of Florida to participate in the ongoing federal process to update NANPA guidelines and increase efficiencies in the number assignment process.

## II. BACKGROUND

In its 1998 decision regarding the Pennsylvania Public Utilities Commission's decision ordering number assignment measures,<sup>5/</sup> the Commission affirmed its earlier conclusion that it has plenary authority over administration of the NANPA pursuant to the Communications Act,<sup>6/</sup> and it delegated only limited authority for states to select among certain code relief alternatives. The PA PUC decision granted states additional authority to order code rationing in narrowly defined circumstances: (a) there is a specific code relief plan in place, (b) the Numbering Plan Area ("NPA") would run out of numbers prior to the implementation of relief, and (c) the industry has been unable to reach a consensus on a rationing plan.<sup>7/</sup> However, other conservation measures, such as number pooling -- whether thousands block pooling or individual telephone number pooling -- were not delegated to the states because "of the activity occurring at the federal level to develop such national standards" for number

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<sup>5/</sup> Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (released September 28, 1998) ("PA PUC Decision").

<sup>6/</sup> See Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) at para. 285.

<sup>7/</sup> PA PUC Decision at para. 24.

pooling.<sup>8/</sup> As the Commission stated therein, "[i]f each state commission were to implement its own NXX code administration measures without any uniformity or standards, it would hamper the NANPA's efforts to carry out its duties as the centralized NXX code administrator."<sup>9/</sup>

Thus, in its most recent order, the Commission reaffirmed the demarcation of jurisdiction regarding numbering issues. At the same time, however, the Commission indicated that it would entertain state requests for additional authority to implement conservation measures outside the scope of their delegated authority.<sup>10/</sup> The Commission stated that it is "interested in working with state commissions that have additional ideas for innovative number conservation methods that this Commission has not addressed, or state commissions that wish to initiate number pooling trials the implementation of which would fall outside of the guidelines we adopt in this Order."<sup>11/</sup> Such requests, however, would have to demonstrate "a proposed conservation method [that] will conserve numbers and thus slow the pace of area code relief, without having anti-competitive consequences. . ."<sup>12/</sup>

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<sup>8/</sup> *Id.* at para. 27.

<sup>9/</sup> *Id.* at para. 33.

<sup>10/</sup> *Id.* at para. 31.

<sup>11/</sup> *Id.*

<sup>12/</sup> *Id.*

Additionally, the Commission has initiated a proceeding to investigate number conservation measures at the federal level.<sup>13/</sup> After the recent work of the NANC and its Number Resource Optimization working group ("NRO") to develop nationwide number pooling standards and other code conservation mechanisms, the Commission sought industry comment on the NRO's conclusions and is working to develop national number pooling and conservation measures. By conducting this investigation at the federal level, the Commission can ensure the adoption of nationwide standards rather than a patchwork of state rules and regulations that would be "impossible" for the NANPA to administer.<sup>14/</sup>

### III. DISCUSSION

Despite the PUC's request for additional authority to implement code conservation measures, Nextel reiterates herein that there are numerous avenues open to the PUC to improve efficiencies in the number assignment and utilization process. For example, the PUC can implement rate center consolidation and inconsistent rate centers without the need for additional authority from the Commission. These measures are potentially helpful in preserving numbering resources and ensuring that they are assigned in an effective and efficient manner, and such measures do not interfere with the Commission's attempt to improve the Nation's telephone

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<sup>13/</sup> Public Notice, "Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures," NSD File No. L-98-134, DA 98-2265, released November 6, 1998.

<sup>14/</sup> See PA PUC Decision at para. 33.

number assignment process nor do they create significant operational and technical difficulties for multi-state, regional and national carriers. By implementing the conservation methodologies already within their numbering jurisdiction, the PUC could ease number exhaust problems in Florida and reduce the costs imposed on consumers as a result of new area codes without jeopardizing the ongoing federal effort to create a more efficient number assignment process.

**A. Pooling Measures**

In the Request, the PUC proposes to explore and implement 1,000 number block pooling and interim unassigned number porting.<sup>15/</sup> To the extent that carriers are LNP-capable and can thereby participate in 1,000 block number pooling, the PUC's proposal could improve efficiencies in the code allocation process in Florida. Nextel, therefore, does not oppose the PUC's request to impose 1,000 block number pooling if (a) it is limited only to LNP-capable carriers, and (b) it is not a substitute for area code relief. Because wireless carriers are not LNP-capable and will not be prepared to implement LNP until well after the wireline industry, the PUC must ensure that wireless carriers continue to have access to 10,000 number blocks on a timely basis.<sup>16/</sup>

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<sup>15/</sup> Request at pp. 4-7.

<sup>16/</sup> Because the PUC did not discuss in detail its request to "expand deployment of permanent number portability," (see Request at p. 4), it is impossible to ascertain exactly what the PUC is proposing. However, Nextel opposes any PUC proposal that would impose LNP requirements on any carrier not currently covered by the scope of current federal regulations governing LNP.

Additionally, similar to the mandatory pooling trial in Illinois, the PUC should be required to establish a specific relief plan, i.e., split or an overlay, that can be implemented expeditiously should telephone numbers exhaust despite the use of 1,000 number block pooling.

With regard to the PUC's other pooling proposal, i.e., unassigned number porting, Nextel notes that the NANC's Number NRO committee has already studied this conservation measure. The NRO Report concluded that unassigned number porting, i.e., the direct transfer of telephone numbers from one carrier's inventory to another, would not be required with the implementation of 1,000 number pooling. Thus, if 1,000 block number pooling is implemented as described above, this conservation measure would not be necessary -- particularly if the PUC implements the other numbering changes that are already within its scope of authority.

**B. Number Utilization Reports**

Nextel does not disagree that the NANPA's number assignment process must be improved. In fact, Nextel is actively participating in efforts at the federal level to make these needed improvements. Again, Nextel urges the PUC to participate in these initiatives to improve the NANPA's ability to obtain consistent number utilization data for better monitoring, auditing and projected number resource use. These efforts involve, however, important issues of confidentiality as well as consistency on a national basis. The ongoing federal effort is considering all of these issues, as well as measures for state PUC access to such

information where warranted. Accordingly, the PUC's participation in the ongoing federal proceeding is the best approach for achieving more efficient number use.<sup>17/</sup>

#### IV. CONCLUSION

To the extent described above, Nextel opposes the PUC's proposals and requests that the Commission encourage Florida and other states to work with NANPA and the industry to resolve code allocation inefficiencies on a nationwide basis.

Respectfully submitted,



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Date: May 14, 1999

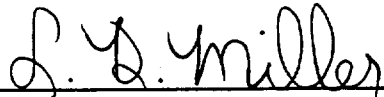
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<sup>17/</sup> Nextel notes that the agenda for the May meeting of the North American Numbering Council includes a report on COCUS alternatives and improvements.

## CERTIFICATE OF SERVICE

I, Ladonya D. Miller, hereby certify that on this 14th day of May 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

Al McCloud  
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